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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,326	05/16/2006	Karl-Heinz Daum	4791-4000	1670
7278 DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770	7590 07/06/2009			
EXAMINER				
LEE, REBECCA Y				
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
07/06/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/532,326

**Applicant(s)**

DAUM ET AL.

**Examiner**

REBECCA LEE

**Art Unit**

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 14-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 22-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Status of Claims***

Claims 14-21 remains withdrawn. Claims 22-25 are newly added. Claims 1-13 and 22-25 are presented for examination on the merits where claims 1 and 10 are amended.

***Status of previous rejections***

The rejection of claim 10 under U.S.C. 112, second paragraph, is withdrawn in view of amendment filed 05/22/09.

The rejection of claim 1 under U.S.C. 103(a) as being unpatentable over Kerner et al. in view of Masseling et al. has been maintained.

The rejection of claims 2-10 and 12-13 under U.S.C. 103(a) as being unpatentable over Kerner et al. in view of Masseling et al., and further in view of Winkler et al. has been maintained.

The rejection of claim 11 under U.S.C. 103(a) as being unpatentable over Kerner et al. in view of Masseling et al. and Winkler et al., and further in view of Senjo et al. has been maintained.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerner et al. (US4212855) in view of Masseling et al. (US 5194239).

Kerner et al. in view of Masseling et al. is applied to claim 1 as set forth in the 01/22/09 office action.

With respect to the amended feature of "wherein the contact stages contain a catalyst", Kerner et al. teach the SO<sub>2</sub> containing gas is converted catalytically into sulfuric acid (Column 1, lines 17-24); i.e., the contact stages contain a catalyst.

Claims 2-10 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerner et al. (US4212855) in view of Masseling et al. (US 5194239) as applied to claim 1 above, and further in view of Winkler et al. (US6500402).

Kerner et al. in view of Masseling et al., and further in view of Winkler et al. is applied to claims 2-10 and 12-13 as set forth in the 01/22/09 office action.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerner et al. (US4212855) in view of Masseling et al. (US 5194239) and Winkler et al. (US6500402) as applied to claim 9 above, and further in view of Senjo et al. (US4061743).

Kerner et al. in view of Masseling et al. and Winkler et al., and further in view of Senjo et al. is applied to claim 11 as set forth in the 01/22/09 office action.

Regarding the newly added claims 22-25, claims 22-23 recite the same limitation of claims 1 and 5, while claims 24-25 recite the same limitation of claims 3-5, thus, claims 22-25 are rejected for the same reasons as stated above.

### ***Response to Arguments***

Applicant's arguments filed 05/22/09 have been fully considered but they are not persuasive.

Applicant traverses the rejections on the ground that the references do not teach returning the SO<sub>2</sub> containing gas to the first contact stage. Applicant argues Kerner et al. merely teach the SO<sub>2</sub> containing gas (which contains SO<sub>3</sub> as well due to incomplete conversion of SO<sub>3</sub> to sulfuric acid) is recycles back to the combustion furnace (Column 4, lines 29-32). However, after the SO<sub>2</sub> containing gas passes through the combustion furnace, it will flow into the contact apparatus (first contact stage) (Column 4, lines 16-50 and Fig 1); thus, reads on the claim limitation.

Applicant then argues none of the references address the catalyst overheating problem. However, this feature is not recited in the claims. In addition, since the process is obvious over the combined references, it would have been obvious to one of ordinary skill in the art to expect the same issue, catalyst overheating problem, would have been taken care of.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REBECCA LEE whose telephone number is (571)270-5856. The examiner can normally be reached on Monday-Friday 8:00 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROY KING can be reached on (571)272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. L./  
Examiner, Art Unit 1793

/Scott Kastler/  
Primary Examiner, Art Unit 1793